



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/535,314	01/10/2006	Werner Goertz	112740-1077	5995
29177 7590 07/17/2008 BELL, BOYD & LLOYD, LLP P.O. BOX 1135 CHICAGO, IL 60690			EXAMINER SMITH, CREIGHTON H	
			ART UNIT 2614	PAPER NUMBER
			MAIL DATE 07/17/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/535,314	<b>Applicant(s)</b> GOERTZ ET AL.	
	<b>Examiner</b> Creighton H. Smith	<b>Art Unit</b> 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 38-74 is/are pending in the application.
- 4a) Of the above claim(s) 1-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 38-40, 42, 47-54, 56, 58-66, 70-74 is/are rejected.
- 7) ☒ Claim(s) 41, 43-46, 55, 57 and 67-69 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05.07.08</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 38, 39, 47-53, 58-64, 71-74 are rejected under 35 U.S.C. 102(E) as being anticipated by Sivula, U.S. Pat. App. Pub. # 2001/0053687.

Sivula discloses a multimedia Message Services Center (MMSC-1). Sivula's Abstract discloses that the multimedia messaging service utilizes store and forward transmission, where the message addressed to subscriber – B is transmitted from the terminal of an A-subscriber to a sever of the MMSC. The arrival of the message at the server of the MMSC is reported to the wireless terminal of the B-subscriber (MSB). In P.0014, Sivula discloses that when a message is transmitted by the A – subscriber, it is first transferred to the MMSC where a short notification message is first transmitted from the MMSC to terminal B as an indication of the message that has arrived at the MMSC. In P.0034 Sivula discloses that the notification message can contain dial-up info on the modem number from which the message can be retrieved. Sivula goes on to disclose in P.0034 that the notification message can contain other info such as info on the sender, as well as the priority, type and size of the message. Sivula discloses that the notification message can be either SMS or WAP, P.0034. Sivula shows the Internet (13) being one of the networks to handle multimedia messages. By its very definition,

multimedia messages include audio, video, and text. See Newton's Telecom Dictionary for a definition of multimedia.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 40, 42, 54, 56, 65, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sivula in view of Evans et al, U.S. Pat. #7,200,680.

Evans et al disclose in claim 1 a multimedia message sent from a multimedia service center to a terminal. A notification is sent from the MMSC to the terminal via a Short Message Service Center (SMSC). To have provided Evans et al teaching of utilizing a SMSC in order to send Sivula's SMS message containing the notification would have been obvious to a person having ordinary skill in the art because the skilled artisan in the wireless messaging arts will realize that it will take a Short Message Service Center in order to deliver the SMS.

Claims 41, 43, 44-46, 55, 57, 67, 68, 69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to Creighton H. Smith at telephone number 571/272-7546.

Application/Control Number: 10/535,314  
Art Unit: 2614

Page 4

14 JUL '08

/Creighton H Smith/  
Primary Examiner, Art Unit 2614